

REMARKS

Applicants would like to express appreciation to the Examiner for the detailed Final Official Action provided. Upon entry of the present paper, claim 1 will have been amended, with claims 1-8 remaining pending before the Examiner. In view of the above, Applicants respectfully request reconsideration and withdrawal of the outstanding rejection of all the claims pending in the present application. Such action is respectfully requested and is now believed to be appropriate.

Turning to the merits of the action, the Examiner has maintained the rejection of claims 1-8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,067,027 to YAMAZAKI. Specifically, in the Examiner's "Response to Arguments" the Examiner noted that "the examiner merely used the applicant's specification to show that the Yamazaki reference includes all of the structural and functional limitations of the claimed invention and therefore would be capable of any claimed property of the claimed invention."

As discussed *supra*, Applicants respectfully traverse the Examiner's rejection, and expressly incorporate herein the applicable arguments proffered in Applicants' previous Response of March 2, 2005. Also as discussed *supra*, the applied YAMAZAKI reference fails to teach or suggest at least that the second focusing mechanism is constructed in such a manner that the photographing optical system is positioned at an object side, in relation to a theoretical position determined when the photographing optical system focuses on an object, when the observation optical system focuses on the object, wherein a measured dioptric power difference is cancelled, and wherein the theoretical position is defined as a position of the photographic optical system such that, when an image observed through the observation optical system is focused on the reticle, the image obtained by the

photographic optical system is also focused, as substantially claimed in claim 1.

Rather, in YAMAZAKI, (also as discussed *supra*) there is a possibility of the photographing optical system being out of focus when a user adjusts the associated focusing mechanism to adjust the focus of the observation optical system, even though it appears to the user that the object is in focus because the diopter adjustment may erroneously influence the amount of focus adjustment provided by the user, since there is no way to cancel or reduce a measured dioptric power difference between a first dioptric power of a combination of an eye of the user and an ocular lens system of the observation optical system, and a second dioptric power of a combination of the eye and the ocular lens system and an objective lens system of the observation optical system. Thus, when an image observed through the observation optical system is focused, the image obtained by the photographic optical system may not be in focus.

Applicants further note that YAMAZAKI also fails to teach or suggest the claimed reticle; rather, the “reticle” 11 of YAMAZAKI identified by the Examiner is merely the objective lens system. Thus, contrary to the Examiner’s determination, YAMAZAKI *does not* include all of the structural or functional limitations of the claimed invention, and neither teaches or anticipates the present claimed invention.

With respect to the Examiner's rejection of dependent claims 2-8, since these claims are dependent from allowable independent claim 1, which is allowable for at least the reasons discussed *supra*, these dependent claims are also allowable for at least these reasons. Further, all dependent claims recite additional features which further define the present invention over the references of record. It is thus respectfully submitted that all rejected claims are patentably distinct from the

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references of record.

Further, Applicants assert that the amendment to the claim does not raise new issues that require the Examiner to conduct an additional search. As noted *supra*, the present amendment has merely more clearly defined the present claimed invention.

Thus, Applicants respectfully submit that each and every pending claim of the present application meets the requirements for patentability under 35 U.S.C. § 103, and respectfully requests the Examiner to indicate the allowance of each and every pending claim in the present application.

SUMMARY AND CONCLUSION

In view of the fact that none of the art of record, whether considered alone, or in any proper combination thereof, discloses or suggests the present invention, reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.

Applicant notes that this amendment is being made to advance prosecution of the application to allowance, and no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. The amendment to the claim have not been made for a purpose related to patentability, but rather is a clarifying amendment that is cosmetic in nature by rendering explicit what was already implied in these claims, *i.e.*, that the theoretical position is defined as a position of the photographic optical system such that, when an image observed through the observation optical system is focused on the reticle, the image obtained by the photographic optical system is also focused. The amendment to the claim should thus be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto. Accordingly, this amendment should not be considered a decision by Applicants to narrow the claims in any way.

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Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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A handwritten signature in dark ink, appearing to read "Will. Boshnick", written over a horizontal dashed line.

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